

UNITED STATES DISTRICT COURT

United States District Court
Southern District of Texas
FILEDfor the
Southern District of Texas

DEC - 7 2016

David J. Bradley, Clerk of Court

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)LG Mobile Phone/ Model LGMS330/Serial#
607CYRN840142/IMEI#351501088401429

Case No.

B-16-1167-MJ

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

An LG Mobile Phone/Model LGMS330, which is currently stored, in at the United States (US) Border Patrol (BP) Fort Brown Border Patrol Station, 3305 S Expressway 83, Brownsville, Texas 78520

located in the Southern District of Texas, there is now concealed (identify the person or describe the property to be seized):

See Attachments "A"

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
21 U.S.C. § 841

Narcotics smuggling

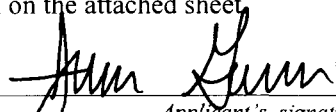
Offense Description

The application is based on these facts:

See attached Affidavit

☒ Continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

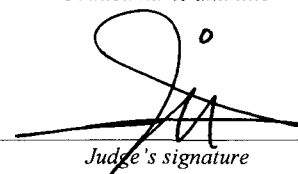


Applicant's signature

Juan M. Garcia, Supervisory Border Patrol Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: December 7, 2016


Judge's signature

City and state: Brownsville, Texas

U.S. Magistrate Judge Ignacio Torteya, III

Printed name and title

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

United States District Court
Southern District of Texas
FILED

DEC - 7 2016

David J. Bradley, Clerk of Court

In the Matter of the Search of a
LG Mobile Phone/Model LGMS330
Serial Number: 607CYRN840142

§
§
§
§
§
§
§
§

Criminal No.

B-16-1167-MJ

Currently Located at the
United States Border Patrol
Fort Brown Border Patrol Station
3305 S. Expressway 83
Brownsville, TX 78520

AFFIDAVIT IN SUPPORT OF AN APPLICATION UNDER RULE 41 FOR A
WARRANT TO SEARCH AND SEIZE

I, Juan M. Garcia, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application under Fed. R. Crim. P. 41 for a warrant to search an LG Mobile Phone/Model LGMS330, Serial Number: 607CYRN840142 (hereinafter "Device"), which is currently stored, in law-enforcement possession, at the United States (US) Border Patrol (BP) Fort Brown Border Patrol Station, 3305 S Expressway 83, Brownsville, Texas 78520.

2. In my training and experience, I know that the Device has been stored in a manner in which its contents are, to the extent material to this investigation, in substantially the same state as they were when the Device first came into the possession of agents.

3. I am Supervisory Border Patrol Agent with BP assigned to the Rio Grande Valley Border Patrol Sector Evidence Collection Team (E.C.T.) with the Fort Brown Station in Brownsville, Texas. I have served as a BP Agent since February 2002 and have been assigned to the E.C.T. since September 2016. I am a law enforcement officer of the U.S., within the meaning of 18 U.S.C. § 2510(7), who is empowered to conduct investigations of, and to make arrests for, offenses enumerated in 18 U.S.C. § 2516. I am classified, trained, and employed as a federal law enforcement officer with statutory arrest authority charged with conducting criminal investigations of alleged violations of federal criminal statutes

4. During my career, I have been a part of numerous arrests linked to harboring and transporting of undocumented aliens and narcotics. Through these arrests, along with my training and experience and conversations with other agents and law-enforcement personnel, I have become familiar with the methods used by human smugglers to smuggle and safeguard undocumented aliens and narcotics and to thwart or evade investigations of their trafficking organizations. One of the tactics frequently used by these organizations is the consistent use of cellular telephones and text messages along with other applications with text and photo messaging capabilities. I am aware that members of these organizations often store co-conspirators' telephone numbers in the telephone memory and communicate using code names through cellular telephones and their radio transmitters to facilitate transactions and to conceal their identities.

5. This affidavit is being submitted for the limited purpose of establishing probable cause to secure a search warrant for the Device. As such, not all facts known to me or other agents concerning this investigation have been included. This affidavit was approved for filing by Assistant U.S. Attorney Israel Cano III.

PROBABLE CAUSE

6. On October 10, 2016, agents from the Fort Brown Border Patrol Station interdicted a narcotics smuggling event. Fort Brown dispatchers received a call and information from a property owner of the Loops farms located near Oklahoma and Florida roads in Brownsville, Texas. The information was that a black in color Ford ranger had entered the property without permission and had loaded up the vehicle with packages that resembled narcotics. Cameron County Constables and Border Patrol agents responded to the location and encountered a black in color Ford Ranger coming out of the property which matched the description. The property is located near the Rio Grande River by the intersection of Florida and Oklahoma roads in Brownsville, Texas. Cameron County Constables and agents began to follow the vehicle in an attempt to conduct a vehicle stop. The vehicle failed to yield and led the constables and agents in a high rate pursuit in an attempt to avoid apprehension. The vehicle showed no disregard for the emergency lights and traffic on the road at the time. The Ford Ranger then did an abrupt turn and went back south on Florida

road towards the Rio Grande River where the driver lost control and the vehicle got stuck in the brush. The driver and occupants abandoned the vehicle and swam back to Mexico. A total weight of 565.3 lbs. of marijuana was secured and seized from the Black Ford Ranger. The vehicle, and narcotics were transported to the Fort Brown Border Patrol Station for processing. During processing the seizing agents found the Device inside the Ford Ranger. The Device was turned over to the Fort Brown Evidence team and was placed into the evidence inventory. The Device is currently being held by Border Patrol at the Fort Brown Station located at 3305 S. Expressway 83, Brownsville, Texas 78520.

7. The affiant asserts that there is probable cause to believe that the Device, which was recovered and seized from the 2004 Ford Ranger, has evidence of narcotics smuggling. It is known that members of these smuggling organizations often store photographs, video, or text messages, and co-conspirators' telephone numbers in the telephone memory and communicate using code names to facilitate the smuggling coordination.

ELECTRONIC DEVICES AND STORAGE

8. As described herein and in Attachment A, this application seeks permission to search and seize things that the Device might contain, in whatever form they are stored. Based on my knowledge, training, and experience, I know that portable electronic devices can store information for long periods of time. Even when a user deletes information from a device, it can sometimes be recovered with forensics tools. Similarly, things that have been viewed via the Internet are typically stored for some period of time on the Device. This information can sometimes be recovered with forensic tools or at digital forensic labs.

9. Searching for the evidence described in Attachment A may require a range of data-analysis techniques. In some cases, agents, computer analysts, and digital forensic lab personnel may be able to conduct carefully-targeted searches that can locate evidence without requiring a time-consuming manual search through unrelated materials that may be commingled with criminal evidence. In other cases, however, such techniques may not yield the evidence described in the warrant. Criminals can mislabel or hide information, encode communications to avoid using key words, attempt to delete information to evade detection, or take other steps designed to frustrate law enforcement searches for information. These steps may require agents and law enforcement or other analysts with appropriate expertise to

conduct more extensive searches, such as scanning storage areas unrelated to things described in Attachment A, or perusing all stored information briefly to determine whether it falls within the scope of the warrant. In light of these difficulties, BP Agents intend to use whatever data-analysis techniques appear necessary to locate and retrieve the evidence described in Attachment A.

10. The evidence collection team will utilize all resources to include a forensic digital laboratory to attain valuable information.

CONCLUSION

11. I submit that this affidavit supports probable cause for a warrant to search the Device and seize the items described in Attachment A.

Respectfully submitted,



Juan M. Garcia
Supervisory Border Patrol Agent
United States Border Patrol

Subscribed and sworn to before me

On December 7, 2016:



HON. IGNACIO TORTEYA, III
UNITED STATES MAGISTRATE JUDGE

8-16-1167-MJ

ATTACHMENT A

1. All records and information, contained in a portable electronic device: **LG Mobile Phone/Model LGMS330/ Serial Number 607CYRN840142**

- a. any information related to narcotic or alien smuggling (including saved contacts, phone logs, text messages, voice mails, videos, photos, or any other saved records); and
- b. evidence of user attribution showing who used or owned the Device at the time the things described in this warrant and attachment were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, and browsing history.

2. As used above, the terms “records” and “information” include all of the foregoing items of evidence in whatever form and by whatever means they may have been created or stored (including, for example: call logs, contact lists, voicemails, and text messages), including any form of computer or electronic storage (such as flash memory or other media that can store data) and any photographic form.